

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHAWN BROCK,

Plaintiff

v.

CHAPLIN EVERAGE,

Defendant

Case No. 2:21-cv-01556-JAD-BNW

**Order Dismissing
and Closing Case**

Plaintiff Shawn Brock brings this civil-rights lawsuit to redress constitutional violations that he claims he suffered while incarcerated at Southern Desert Correctional Center. On August 25, 2021, this court ordered Brock to file a signed amended complaint and to either pay the \$402 filing fee or file a fully signed *in forma pauperis* application by October 25, 2021.¹ On September 22, 2021, the plaintiff filed a signed amended complaint.² However, the October 25, 2021, deadline expired without a fully signed *in forma pauperis* application or payment of the filing fee.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action

¹ ECF No. 3.

² ECF No. 4.

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious
 2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
 3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 4 availability of less drastic alternatives.⁵

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the
 6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
 7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 9 ordered by the court or prosecuting an action.⁶ A court’s warning to a party that its failure to
 10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of
 11 alternatives” requirement,⁷ and that warning was given here.⁸ The fourth factor—the public
 12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
 13 favoring dismissal.

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 19 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
 20 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

21 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
Ferdik, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

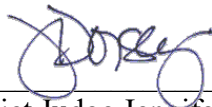
22 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 ⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁸ ECF No 3 at 4.

1 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
2 based on the plaintiff's failure to file a fully signed application to proceed *in forma pauperis* or
3 pay the filing fee as ordered. The Clerk of Court is directed to **ENTER JUDGMENT**
4 accordingly and **CLOSE THIS CASE. No other documents may be filed in this now-closed**
5 **case.** If Shawn Brock wishes to pursue his claims, he must file a complaint in a new case, and he
6 must either pay the \$402 filing fee or file a complete *in forma pauperis* application in that new
7 case.

8 Dated: November 4, 2021

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11 U.S. District Judge Jennifer A. Dorsey
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